

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

STEPHEN G. RADEMAKER AND DANIELLE M. PLETKA, SP 2013-DR-075 Appl. under Sect(s). 8-923 of the Zoning Ordinance to permit fence greater than 4.0 ft. in height in front yard of a corner lot. Located at 1620 Brookside Rd., McLean, 22101, on approx. 28,616 sq. ft. of land zoned R-2. Dranesville District. Tax Map 31-4 ((4)) 30B. (Concurrent with VC 2013-DR-018). Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The owner of the property is the applicant.
2. The zoning is R-2.
3. The area of the lot is 28,616 square feet.
4. This fence is located 0.1 feet, not on the applicants' property. It is on the adjacent property owners' property.
5. The Board received a letter from Blair Marshall, M.D., who is the immediate neighbor, at 5914 Chesterbrook Road.
6. He indicated that there is absolutely no issue with the location of the fence.
7. In fact, it probably would become an eyesore because the fence is within the offset as opposed to being parallel. The Board understood why it was done.
8. Having dealt with surveyors, who are all really good people and do a great job, if another surveyor was obtained and went out, that fence would be on the subject property. 0.1 is so minute that people make mistakes; not intentionally.
9. It is so close you really cannot tell the difference.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.


NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This special permit is granted only for the purposes, structures and/or uses indicated on the plat "Variance Plat, Lot 4, Section One, Chesterbrook Woods" prepared by Timothy J. Farrell, Land Surveyor, of B.W. Smith and Associates, Inc., dated January 22, 2013, signed June 4, 2013, and approved with this application, as qualified by these development conditions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Ms. Theodore seconded the motion, which carried by a vote of 5-0. Mr. Hammack was not present for the vote. Mr. Hart recused himself from the hearing.

A Copy Teste:

  
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Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals

## COUNTY OF FAIRFAX, VIRGINIA

### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

STEPHEN G. RADEMAKER AND DANIELLE M. PLETKA, VC 2013-DR-018 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit accessory structure to remain in the front yard of a lot containing 36,000 sq. ft. or less. Located at 1620 Brookside Rd., McLean, 22101, on approx. 28,616 sq. ft. of land zoned R-2. Dranesville District. Tax Map 31-4 ((4)) 30B. (Concurrent with SP 2013-DR-075). Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 28,616 square feet.
4. This meets the required standards for a variance.
5. The property was acquired in good faith.
6. It does have exceptional topographical conditions.
7. There is an extraordinary situation or condition of the subject property given the fact that it has two front yards.
8. From the standpoint of Number 6, which is always the toughest criteria, the Board felt that strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use of the subject property.
9. In this case, it would unreasonably restrict the use.
10. The granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege.
11. It will not be a substantial detriment to the adjacent properties.
12. The zoning district character is not going to change.
13. The variance would be in harmony with the intended spirit and purpose of the Ordinance.
14. There is no objection to the variance itself. There are a significant number of people who are neighbors who have signed a petition in support.
15. Two out of four of the individuals who support this are on the Association board.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.


NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved to permit the accessory structure, a playground set, to remain in the front yard of the property as shown on the plat "Variance Plat, Lot 4, Section One, Chesterbrook Woods" prepared by Timothy J. Farrell, Land Surveyor, of B.W. Smith and Associates, Inc., dated January 22, 2013, signed June 4, 2013, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Ms. Theodore seconded the motion, which carried by a vote of 5-0. Mr. Hammack was not present for the vote. Mr. Hart recused himself from the hearing.

A Copy Teste:

  
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Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals